

**U.S. Bankruptcy Court
Eastern District of Virginia (Alexandria)
Adversary Proceeding #: 13-01141-BFK**

Assigned to: Brian F. Kenney
Lead BK Case: 12-12158
Lead BK Title: TK Mechanical, Inc.
Lead BK Chapter: 7
Demand: \$23000

Date Filed: 06/06/13

Nature[s] of Suit: 12 Recovery of money/property – 547
preference

Plaintiff

H. Jason Gold
Wiley Rein, LLP
7925 Jones Branch Drive
Suite 6200
McLean, VA 22102

represented by **John T. Farnum**
Wiley Rein LLP
7925 Jones Branch Drive
Suite 6200
McLean, VA 22102
703-905-2800
Fax : 703-905-2820
Email: jfarnum@wileyrein.com

V.

Defendant

KG Sheet Metal Services, Inc.
Rhonda J. Grenier, Resident Agent
9720 Marshall Corner Rd.
White Plains, MD 20695

represented by **KG Sheet Metal Services, Inc.**
PRO SE

Filing Date	#	Docket Text
06/06/2013	<u>1</u>	Adversary case 13-01141. Complaint against KG Sheet Metal Services, Inc. filed by H. Jason Gold in his capacity as Trustee for T.K. Mechanical, Inc.. (Attachments: # <u>1</u> Adversary Proceeding Cover Sheet # <u>2</u> Exhibit A) Nature of Suit: (12 (Recovery of money/property – 547 preference)) Associated Bankruptcy Case Number: 1:12-bk-12158 (Farnum, John)
06/06/2013	2	U.S. Treasury receipt of Complaint(13-01141-BFK) [cmp,cmpfee] (293.00) filing fee. Receipt number 17394462, amount \$ 293.00. (Re: Doc# <u>1</u>) (U.S. Treasury)
06/07/2013	<u>3</u>	Summons and Notice of Pre-Trial Conference. Summons Issued to KG Sheet Metal Services, Inc. Answer Due 7/8/2013 Pre-Trial Conference set for 11/18/2013 at 09:30 AM at Judge Kenney's Courtroom, 200 South Washington Street, 3rd Floor, Courtroom III, Alexandria, VA, (Glenn, Jillinda)
06/07/2013	<u>4</u>	Initial Scheduling Order (Glenn, Jillinda)
06/21/2013	<u>5</u>	

			Affidavit of Service (Re: related document(s) <u>1</u> Complaint filed by H. Jason Gold, <u>3</u> Summons and Notice of Pre-Trial Conference, <u>4</u> Scheduling Order) filed by John T. Farnum of Wiley Rein LLP on behalf of H. Jason Gold. (Farnum, John)
07/17/2013		<u>6</u>	Motion for Default Judgment <i>Plaintiff's Motion for Entry of Default and Default Judgment</i> filed by John T. Farnum of Wiley Rein LLP on behalf of H. Jason Gold. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Proposed Order) (Farnum, John)
07/17/2013		<u>7</u>	Notice of Hearing <i>Notice of Plaintiff's Motion for Order on Entry of Default and Default Judgment and Notice of Hearing Thereon</i> (Re: related document(s) <u>6</u> Motion for Default Judgment filed by H. Jason Gold) filed by John T. Farnum of Wiley Rein LLP on behalf of H. Jason Gold. Hearing scheduled for 8/13/2013 at 09:30 AM at Judge Kenney's Courtroom, 200 South Washington Street, 3rd Floor, Courtroom III, Alexandria, VA. (Farnum, John)
07/17/2013		<u>8</u>	Motion to Approve <i>Discovery Plan</i> filed by John T. Farnum of Wiley Rein LLP on behalf of H. Jason Gold. (Attachments: # <u>1</u> Exhibit A # <u>2</u> Proposed Order) (Farnum, John)
07/17/2013		<u>9</u>	Notice of Hearing <i>Notice of Motion to Approve Discovery Plan and Notice of Hearing Thereon</i> (Re: related document(s) <u>8</u> Motion to Approve filed by H. Jason Gold) filed by John T. Farnum of Wiley Rein LLP on behalf of H. Jason Gold. Hearing scheduled for 8/19/2013 at 09:30 AM at Judge Kenney's Courtroom, 200 South Washington Street, 3rd Floor, Courtroom III, Alexandria, VA. (Farnum, John)
07/19/2013		<u>10</u>	Entry of Default against KG Sheet Metal Services, Inc. (Re: related document(s) <u>6</u> Motion for Default Judgment filed by H. Jason Gold) (Glenn, Jillinda)
08/13/2013		11	Hearing Cancelled Removed/Granted (related document(s): <u>6</u> Motion for Default Judgment) (lawsont)
08/28/2013		<u>12</u>	Report and Recommendation (Re: related document(s) <u>6</u> Motion for Default Judgment filed by H. Jason Gold) ; (Glenn, Jillinda)
08/30/2013		<u>13</u>	BNC certificate of mailing of order (Re: related document(s) <u>12</u> Memorandum Opinion) (Admin.) (Entered: 08/31/2013)

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re

TK MECHANICAL, INC.,

Debtor.

Bankruptcy Case
No. 12-12158-BFK
Chapter 7

H. JASON GOLD IN HIS CAPACITY AS
TRUSTEE FOR T.K. MECHANICAL,
INC.,

Plaintiff,

v.

Adv. No. 13-01141-BFK

KG SHEET METAL SERVICES, INC.,

Defendant.

PLAINTIFF’S MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT

COMES NOW, H. Jason Gold, the chapter 7 Trustee (the “Trustee”) for the above-captioned debtor, by his undersigned counsel, and pursuant to Fed. R. Bankr. P. 7055(b) files this Motion for Entry of Default and Default Judgment (“Motion”)¹, stating to the Court as follows:

1. On April 4, 2012 (“Petition Date”), a voluntary petition under chapter 7 of the United States Bankruptcy Code (“Bankruptcy Code”) was filed by the Debtor.
2. On November 30, 2012, the Trustee sent a letter to the Defendant, demanding payment on account of preferential transfers made to the Defendant.

¹ In accordance with Local Rule 9013-1(G)(1), the Motion and memorandum in support thereof are combined in a single pleading.

3. On June 6, 2013, the Trustee filed a complaint (“Complaint”) against KG Sheet Metal Services, Inc. (“Defendant”) to avoid transfers and recover property and for related relief. Pursuant to the Complaint, the Trustee seeks to recover the sum of \$22,924.84 from the Defendant.

4. The summons and Complaint in this action were served upon the resident agent for the Defendant by first class mail on June 12, 2013.

5. The time within which the Defendant may answer or otherwise respond to the Complaint pursuant to Rule 7012 of the Bankruptcy Rules has expired.

6. The Defendant has never appeared, either informally or formally, during the course of this matter.

7. The Defendant has failed to timely answer or otherwise respond to the Complaint and the time for Defendant to answer or otherwise respond has not been extended. Pursuant to Rule 7055 of the Federal Rules of Bankruptcy Procedure, cause exists for granting the Plaintiff judgment by default.

8. In support of this Motion, attached as Exhibit “A” is the Affidavit of H. Jason Gold, chapter 7 trustee for TK Mechanical, Inc.

WHEREFORE, for the reasons set forth herein, the Trustee respectfully requests that this Court enter an order: (i) granting the Motion; (ii) granting default judgment for the Trustee and against the Defendant, KG Sheet Metal Services, Inc. in the amount of \$22,924.84, plus interest at the statutory rate from the November 30, 2012 until paid, plus costs in the amount of \$293.00; and (iii) granting such further relief as it deems proper.

Respectfully submitted,

H. JASON GOLD IN HIS CAPACITY AS
TRUSTEE FOR TK MECHANICAL, INC.

By Counsel

WILEY REIN LLP
7925 Jones Branch Drive, Suite 6200
McLean, Virginia 22102
Phone: (703) 905-2800
Fax: (703) 905-2820

By: /s/ John T. Farnum
Valerie P. Morrison, Va. Bar No. 24565
John T. Farnum, Va. Bar No. 74075

Counsel to the Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July 2013, the foregoing Motion was sent
by first class mail, postage prepaid, to:

Office of the United States Trustee
115 South Union Street, Suite 210
Alexandria, Virginia 22314

KG Sheet Metal Services, Inc.
Rhonda J. Grenier, Resident Agent
9720 Marshall Corner Road
White Plains, Maryland 20695

/s/ John T. Farnum
John T. Farnum

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re

TK MECHANICAL, INC.,

Debtor.

Bankruptcy Case
No. 12-12158-BFK
Chapter 7

H. JASON GOLD IN HIS CAPACITY AS
TRUSTEE FOR T.K. MECHANICAL,
INC.,

Plaintiff,

v.

Adv. No. 13-01141-BFK

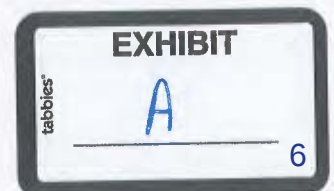
KG SHEET METAL SERVICES, INC.,

Defendant.

**AFFIDAVIT OF H. JASON GOLD, CHAPTER 7
TRUSTEE FOR T.K. MECHANICAL, INC.**

I, H. Jason Gold, as the chapter 7 trustee ("Trustee" or "Plaintiff") for TK Mechanical, Inc., after being first duly sworn, do hereby depose and state as follows:

1. I am the Trustee for TK Mechanical, Inc.
2. On April 3, 2012 (the "Petition Date"), a voluntary petition under Chapter 7 of the United States Bankruptcy Code was filed by TK Mechanical, Inc.
3. On April 10, 2012, I was appointed as chapter 7 Trustee.
4. By letter dated November 30, 2012 ("Letter") I demanded payment of the preference amount from the Defendant. A true and correct copy of the Letter is attached as Exhibit "A".



5. On June 6, 2013, I filed a Complaint to avoid transfers and recover property and for related relief (the "Complaint") against the above-named defendant, KG Sheet Metal Services, Inc. ("Defendant").

6. The summons and Complaint in this action were served upon the resident agent for the Defendant by first class mail, postage prepaid, on June 12, 2013.

7. The Complaint asserted claims under 11 U.S.C. §§ 547 through 550 to avoid and recover transfers (the "Pre-Petition Transfers") made to the Defendant during the ninety (90) day period prior to the Debtor's petition date, April 4, 2012 (the "Petition Date"). True and correct copies of the relevant checks are attached as Exhibit "B".

8. Based upon my review of the records of the Debtor, I believe that the Pre-Petition Transfers evidenced in Exhibit "B" were made in payment of antecedent obligations in the amount of \$22,924.84 by the Debtor to the Defendant.

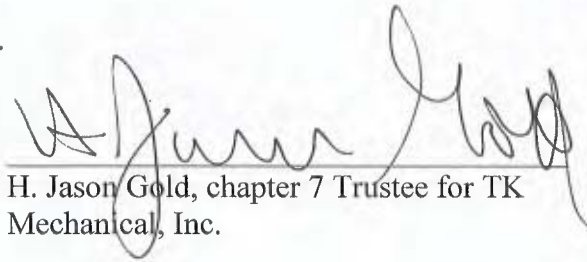
9. The Summons issued by the Court and served upon the Defendant required the Defendant to answer or otherwise respond to the Complaint on or before July 8, 2013. The time within which the Defendant may answer or otherwise respond to the Complaint pursuant to Rule 7012 of the Bankruptcy Rules has expired.

10. Defendant has never appeared, either informally or formally, during the course of this matter.

11. Through July 15, 2013, the Plaintiff has incurred expenses in the amount of \$293.00 in pursuit of its claims against the Defendant.

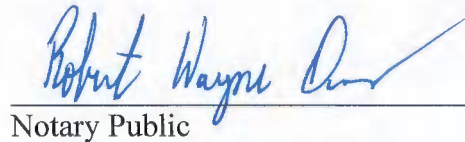
12. The Pre-Petition Transfers \$22,924.84, along with interest at the statutory rate from November 30, 2012 until paid, and expenses of \$293.00, constitute the Plaintiff's damages in this adversary proceeding.

FURTHER THE AFFIANT SAYETH NOT.


H. Jason Gold, chapter 7 Trustee for TK
Mechanical, Inc.

COMMONWEALTH OF VIRGINIA)
)
COUNTY OF FAIRFAX), to wit:

On this 15th day of July 2013, H. Jason Gold, as the Trustee for TK Mechanical, Inc.,
appeared before me in person and stated that the foregoing is true and correct to the best of his
knowledge and belief.


Notary Public

My commission expires:

May 31, 2016





7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

www.wileyrein.com

November 30, 2012

BY FIRST CLASS U.S. MAIL

KG Sheet Metal Services, Inc.
P.O. Box 1451
White Plains, MD 20695

Rhonda J. Grenier
9720 Marshall Corner Road
White Plains, MD 20695

Re: *In re T.K. Mechanical, Inc.*
Chapter 7 Bankruptcy Case No. 12-12158-BFK

Dear Sir or Madam:

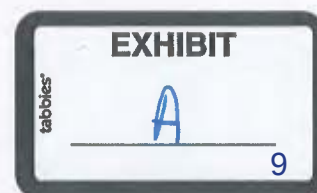
This firm is counsel to H. Jason Gold, chapter 7 bankruptcy trustee for T.K. Mechanical, Inc. ("Debtor"), in the above-referenced chapter 7 case. On April 3, 2012 ("Petition Date"), the Debtor filed a voluntary chapter 7 petition in the United States Bankruptcy Court for the Eastern District of Virginia, Alexandria Division ("Bankruptcy Court"). A copy of Mr. Gold's appointment order is attached as Exhibit A hereto for your reference.

The Debtor's records indicate that KG Sheet Metal Services, Inc. received payments from the Debtor in the amounts set forth on Exhibit B during the ninety day period prior to the Petition Date (collectively, the "Transfer"). We believe that the Transfer is an avoidable, preferential transfer pursuant to sections 547(b) and 550(a) of the Bankruptcy Code.

Accordingly, we hereby make demand that KG Sheet Metal Services, Inc. deliver payment in the amount of \$22,924.84, within fourteen days of the date of this letter. Payment should be made by check payable to "H. Jason Gold, Trustee" and delivered to the above address.

However, if you believe that KG Sheet Metal Services, Inc. has valid defenses to the Trustee's preference claims, please identify any such defenses and send your analyses and documentation supporting such defenses to my attention at the above address within fourteen (14) days from the date of this letter in an effort to resolve this matter.

John T. Farnum
703.905.2854
jfarnum@wileyrein.com





Please be advised that if we do not hear from you within fourteen days from the date of this letter, we may institute a lawsuit against KG Sheet Metal Services, Inc. in the Bankruptcy Court seeking to recover a judgment in the amount of the Transfer, plus pre- and post-judgment interest, without any further notice.

Sincerely,



John P. Farnum

Enclosures

Case 12-12158-BFK Doc 7 Filed 04/10/12 Entered 04/10/12 14:03:14 Desc Main
Document Page 1 of 1

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In Re:

TK Mechanical, Inc.

Case No. 12-12158-BFK

Debtor(s)

Chapter 7

APPOINTMENT OF SUCCESSOR TRUSTEE
AND DESIGNATION OF REQUIRED BOND

H. Jason Gold, Esq. of McLean, Virginia is hereby appointed successor Trustee for the estate of the above named debtor, the previous Chapter 7 Trustee, Gordon Peyton, Esq. having resigned.

This case will be covered by a blanket bond for Chapter 7 trustees, a copy of which is on file with the court.

W. Clarkson, McDow, Jr.
United States Trustee
Region Four

Date: April 9, 2012

/s/ Joseph A. Guzinski
Joseph A. Guzinski, Asst. U.S. Trustee
Office of the U.S. Trustee
115 S. Union St., Suite 210
Alexandria, VA 22314
(703) 557-7176

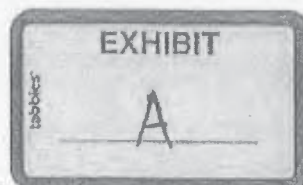


Exhibit B

<u>Payee</u>	<u>Check #</u>	<u>Amount</u>	<u>Check/Wire Date</u>	<u>Clear Date</u>
KG Sheet Metal Services, Inc.	15953	\$13,211.00	01/06/12	01/12/12
	16214	\$4,013.84	02/17/12	02/24/12
	16351	\$2,500.00	03/16/12	03/22/12
	16357	\$3,200.00	03/19/12	03/22/12
Total		\$22,924.84		

FNB Bank Inc
Account: 866

PG 10 OF 17

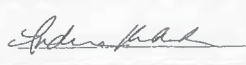
T.K. MECHANICAL, INC. 14600 FLINT LEE ROAD UNIT H CHANTILLY, VA 20151 (703) 378-9044		FNB BANK PO BOX 101 HOMER, WV 26157 6041 RFD #700	68-123 552	15953
PAY TO THE ORDER OF KG SHEET METAL SERVICES, INC. PO BOX 1451 WHITE PLAINS, MD 20695		DATE 1-06-2012	AMOUNT 13,211.00	
Pay: *****Thirteen thousand two hundred eleven dollars and no cents @				
<i>Thomas A. T. K. K.</i>				
953* 1930* 1855*				

866 01/12/2012 15953 \$13,211.00



FNB Bank Inc
Account: 866

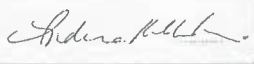
PG 13 OF 16

T.K. MECHANICAL, INC. 14500 FLINT LEE ROAD UNIT H CHANTILLY, VA 20151 (703) 378-9044		FNB BANK PO BOX 1007 ROANOK, VA 24007 (540) 822-8700	16214
KG SHEET METAL SERVICES, INC. PO BOX 1451 WHITE PLAINS, MD 20695		DATE 2-17-2012	AMOUNT 4,013.84
Pay: *****Four thousand thirteen dollars and 84 cents			
			
214 1938 1855			

866 02/24/2012 16214 \$4,013.84

FNB Bank Inc
Account: 866

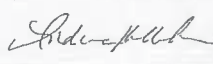
PG 15 OF 19

T.K. MECHANICAL, INC. 14500 FLINT LEE ROAD UNIT 14 CHANTILLY, VA 20151 (703) 378-9044		<small>FNB BANK PO BOX 1857 HOMER, NY 12537 ORA 862 8790</small>	<small>02/13/12</small>
PAY TO THE ORDER OF KG SHEET METAL SERVICES, INC. PO BOX 1451 WHITE PLAINS, MD 20695		DATE 3-16-2012	AMOUNT 2,500.00
Pay: *****Two thousand five hundred dollars and no cents			
			
<small>351 1938 1856</small>			

866 03/22/2012 16351 \$2,500.00

FNB Bank Inc
Account: 866

PG 16 OF 19

T.K. MECHANICAL, INC. 14600 FLINT LEE ROAD UNIT H CHANTILLY, VA 20151 (703) 378-9044		<small>FNB BANK PO BOX 1837 PORTSMOUTH, VA 23703 (804) 622-4700</small>	<small>FB 100 525</small>
		DATE	3-19-2012
		AMOUNT	3,200.00
PAY TO THE ORDER OF	KG SHEET METAL SERVICES, INC. PO BOX 1451 WHITE PLAINS, MD 20695		
Pay: *****Three thousand two hundred dollars and no cents @			
			
357 1938 1866			
866 03/22/2012 16357 \$3,200.00			

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re

TK MECHANICAL, INC.,

Debtor.

Bankruptcy Case
No. 12-12158-BFK
Chapter 7

H. JASON GOLD IN HIS CAPACITY AS
TRUSTEE FOR T.K. MECHANICAL,
INC.,

Plaintiff,

v.

Adv. No. 13-01141-BFK

KG SHEET METAL SERVICES, INC.,

Defendant.

**ORDER GRANTING MOTION FOR ENTRY OF DEFAULT
AND DEFAULT JUDGMENT**

UPON the Plaintiff's Motion ("Motion") for entry of default and default judgment against KG Sheet Metal Services, Inc. ("Defendant") and affidavit of H. Jason Gold; and it appearing to the Court that the Summons issued by the Court and served upon the Defendant in accordance with Fed. R. Bankr. P. 7004 required the Defendant to answer or otherwise respond to the Complaint on or before July 8, 2013; and it appearing that the Defendant has failed to appear, plead or otherwise respond to the Complaint; and it appearing that proper and adequate notice of the Motion has been given and that no further notice is necessary; and it appearing that there is good and sufficient cause to grant the Motion:

IT IS HEREBY ORDERED:

1. The Motion is Granted.
2. In accordance with Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55(b)(2), the Plaintiff is awarded judgment against the Defendant, KG Sheet Metal Services, Inc., in the amount of \$22,924.84 plus interest at the statutory rate from November 30, 2012 until paid, plus costs in the amount of \$293.00.

Dated: _____, 2013

Brian F. Kenney
United States Bankruptcy Judge

PREPARED BY:

WILEY REIN LLP
7925 Jones Branch Drive, Suite 6200
McLean, Virginia 22102
703.905.2800

By: /s/ John T. Farnum
Valerie P. Morrison, Va. Bar No. 24565
John T. Farnum, Va. Bar No. 74075

Counsel to H. Jason Gold, Trustee

CERTIFICATION PURSUANT TO LOCAL RULE 9022-1: SERVICE

I HEREBY CERTIFY that on this 17th day of July, 2013, a copy of the foregoing Order was
sent by first class mail, postage prepaid, to:

Office of the United States Trustee
115 South Union Street, Suite 210
Alexandria, Virginia 22314

KG Sheet Metal Services, Inc.
Rhonda J. Grenier, Resident Agent
9720 Marshall Corner Road
White Plains, Maryland 20695

/s/ John T. Farnum
John T. Farnum

LIST OF PARTIES TO RECEIVE NOTICE OF ENTRY
PURSUANT TO LOCAL RULE 9022-1

H. Jason Gold
Valerie P. Morrison
John T. Farnum
WILEY REIN LLP
7925 Jones Branch Drive, Suite 6200
McLean, Virginia 22102

KG Sheet Metal Services, Inc.
Rhonda J. Grenier, Resident Agent
9720 Marshall Corner Road
White Plains, Maryland 20695

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re:)	
)	
TK MECHANICAL, INC.)	Case No. 12-12158-BFK
)	Chapter 7
Debtor)	
)	
H. JASON GOLD, TRUSTEE)	
)	
Plaintiff)	
)	
vs.)	Adversary Proceeding No. 13-01141
)	
KG SHEET METAL SERVICES, INC.)	
)	
Defendant)	

REPORT AND RECOMMENDATION

This matter comes before the Court on the Plaintiff's Motion for Default Judgment against Defendant KG Sheet Metal Services, Inc. (Docket No. 6). The Plaintiff filed the Complaint on June 6, 2013, and seeks to recover \$22,924.84 from the Defendant on a preferential transfer made on or within 90 days prior to the filing of the Debtor's Bankruptcy Petition. There being no Answer filed to the Plaintiff's Complaint, the Court recommends that the Plaintiff's Motion for Default Judgment be granted, and that a money judgment in the amount of \$22,924.84 be entered for the Plaintiff.

Jurisdiction

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and the Order of Reference of the U.S. District Court for this District dated August 15, 1984. This is a core proceeding under 28 U.S.C. § 157(b)(2)(F). Complaint, ¶ 3. Because the Plaintiff seeks to augment the bankruptcy estate by the entry of a money judgment, the Court will enter a Report

and Recommendation, and not a final order, pursuant to the District Court's opinion in *McCarthy v. Wells Fargo Bank, N.A. (In re El-Atari)*, No. 1:11cv1090, 2011 WL 5828013 (E.D. Va. Nov. 18, 2011).

The Plaintiff's Motion for Default Judgment

According to the allegations of the Complaint, on April 3, 2012 ("Petition Date"), the Debtor filed a voluntary petition under Chapter 7 of the United States Bankruptcy Code ("Bankruptcy Code"). Complaint at ¶ 5. From January 4, 2012 through April 3, 2012, the Debtor made four transfers by check, electronic transfer, debit, and/or other manner to the Defendant. *Id.* at ¶ 7. First, the Debtor issued a check for \$13,211 to the Defendant on January 6, 2012. *Id.* at Ex. A. This check cleared on January 12, 2012. *Id.* Second, the Debtor issued a check for \$4,013.84 to the Defendant on February 17, 2012. *Id.* This check cleared on February 24, 2012. *Id.* Third, the Debtor issued a check for \$2,500 to the Defendant on March 16, 2012. *Id.* This check cleared on March 22, 2012. *Id.* Fourth, the Debtor issued a check for \$3,200 to the Defendant on March 19, 2012. *Id.* This check cleared on March 22, 2012. *Id.*

On June 6, 2013, the Plaintiff filed this adversary proceeding to recover the funds. On June 7, 2013, this Court issued a Summons and Notice of Pre-Trial Conference, which required the Defendant to file an Answer no later than July 8, 2013. Docket No. 3. The Summons and Complaint were properly served on the Defendant via first class mail on June 12, 2013, pursuant to Fed. R. Bankr. P. 7004(b)(3). Docket No. 5. On July 17, 2013, the Plaintiff filed the present Motion for Default Judgment, which seeks a \$22,924.84 money judgment against the Defendant. Docket No. 6.

The Court scheduled a hearing on the Plaintiff's Motion for Default Judgment for August 19, 2013. Notice of the hearing was served on the Defendant on July 17, 2013. Docket No. 9.

The Notice provided: “[u]nless a written response and supporting memorandum are filed and served by [seven days before the hearing date], the Court may deem any opposition waived, treat the Motion as conceded, and issue an order granting the requested relief without further notice or hearing.” *Id.* The Defendant did not file a response. Pursuant to Fed. R. Bankr. P. 7012(a), “[i]f a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court.” The Court finds that the Summons was properly served on the Defendant, and that the Defendant failed to file an Answer in accordance with Fed. R. Bankr. P. 7012. The Court further finds that the amount sought is for a sum certain. Accordingly, this Court recommends that the Plaintiff’s Motion for Default Judgment be granted, and that a money judgment in the amount of \$22,924.84 be entered for the Plaintiff.

Conclusion

For the reasons stated above, the Court recommends that the Plaintiff’s Motion for Default Judgment be GRANTED, and that a money judgment in the amount of \$105,208.95, through the entry of the Judgment, be ENTERED for the Plaintiff against the Defendant. Interest on the principal amount of the Judgment will accrue post-Judgment at the federal judgment rate provided in 28 U.S.C. § 1961.

The Defendant is notified that Bankruptcy Rule 9033(b) provides as follows:

Objections: Time for Filing. Within 14 days after being served with a copy of the proposed findings of fact and conclusions of law a party may serve and file with the clerk written objections which identify the specific proposed findings or conclusions objected to and state the grounds for such objection. A party may respond to another party’s objections within 14 days after being served with a copy thereof. A party objecting to the bankruptcy judge’s proposed findings or conclusions shall arrange promptly for the transcription of the record, or such portions of it as all the

parties may agree upon or the bankruptcy judge deems sufficient, unless the district judge otherwise directs.

Fed. R. Bankr. P 9033(b).

The Court will issue an Order making the foregoing recommendation to the District Court.

Date: Aug 26 2013

/s/ Brian F. Kenney

Brian F. Kenney
United States Bankruptcy Judge

Entered on Docket: 8/28/2013

Copies to:

John T. Farnum, Esquire
Wiley Rein LLP
7925 Jones Branch Drive
Suite 6200
McLean, VA 22102
Counsel to the Plaintiff

Office of the United States Trustee
115 South Union Street, Suite 210
Alexandria, Virginia 22314

KG Sheet Metal Services, Inc.
Rhonda J. Grenier, Resident Agent
9720 Marshall Corner Road
White Plains, Maryland 20695
Defendant, *pro se*